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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,968

03/02/2004

David L. Kaminsky

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07/25/2008

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EXAMINER

MANOHARAN, MUTHUSWAMY GANAPATHY

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

07/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/790,968	Applicant(s) KAMINSKY ET AL.	
	Examiner MUTHUSWAMY G. MANOHARAN	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35 and 36 is/are allowed.
- 6) ☒ Claim(s) 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Erb in view over Seligmann (US 7142664) and Karlsson et al. (hereinafter Karlsson) (US 2005/0221808).

Regarding **claim 37**, Erb teaches a method for controlling the behavior of a wireless telephone comprising: so that when an incoming call to the wireless telephone is detected by the wireless telephone, the wireless telephone automatically determines its own location ("**the location of the wireless communication device to which the incoming call is destined is determined**", Abstract),

automatically determines an identity of a person making the incoming call ("**caller information such as for example caller identification (ID)**", Paragraph [0032]),

and automatically selects a single policy from a plurality of policies (Figure 4) and

resolving any conflicts arising between the plurality of policies (Erb teaches importance threshold to resolve conflicts arising between the plurality of policies, Figure 4, Paragraph [0032]); and

responsive to the wireless telephone selecting the single policy ("importance threshold", Figure 4);

Erb further teaches in a different embodiment automatically determines an event a user of the wireless phone is participating in at a time when the incoming call was detected ("**during important meetings or other situations ringing of cellular telephones can be especially disrupting**", Paragraph [0002]). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to program the device automatically determines an event a user of the wireless phone is participating in at a time when the incoming call was detected in order to avoid undesirable interruptions.

Erb did not teach specifically comparing the location, the event, and the identity to the plurality of policies. However, Erb teaches comparing the location and the identity (Paragraph [0031-0033]). Erb further teaches in another embodiment comparing the location and the event to the plurality of policies (Paragraph [0040]). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to have the method selects a single policy from a plurality of policies by comparing the location, the event, and the identity to the plurality of policies and resolving any conflicts arising between the plurality of policies. This modification gives additional flexibility to the user of the telephone.

Erb did not teach specifically the method automatically causing itself to behave in a manner for the location, the event, and the identity determined by the wireless telephone. Seligman teaches in an analogous art specifically the method automatically causing itself to behave in a manner for the location, the event, and the identity

determined by the wireless telephone (Abstract). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use the method automatically causing itself to behave in a manner for the location, the event, and the identity determined by the wireless telephone so that the telephone intelligently decides how to alert the user to the arrival of an incoming message.

The combination of Erb and Seligman did not teach specifically programming the wireless telephone. However, Karlsson teaches in an analogous art programming the wireless telephone (abstract, Figure 1). Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to program the wireless telephone in order to perform modifications of the importance threshold based on user preferences.

Response to Arguments

Applicant's arguments with respect to claim 37 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

Claims 35 and 36 are allowed in view of applicant's amendment and accompanying remarks filed on 4/28/2008.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUTHUSWAMY G. MANOHARAN whose telephone number is (571)272-5515. The examiner can normally be reached on 7:00AM-2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eng George can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617